



**Billing Code: 4510.43-P**

**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**Petitions for Modification of Application of Existing Mandatory Safety Standards**

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

**DATES:** All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before [Insert date 30 days from the date of publication in the FEDERAL REGISTER].

**ADDRESSES:** You may submit your comments, identified by “docket number” on the subject line, by any of the following methods:

1. **Electronic Mail:** [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.
2. **Facsimile:** 202-693-9441.



3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, Attention: George F. Triebsch, Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21<sup>st</sup> floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** Barbara Barron, Office of Standards, Regulations and Variances at 202-693-9447 (Voice), [barron.barbara@dol.gov](mailto:barron.barbara@dol.gov) (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or



2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

## **II. Petitions for Modification**

Docket Number: M-2013-002-C.

Petitioner: Wheels Coal Company, 59 Main Street, Tremont, Pennsylvania 17981.

Mine: No. 5 Vein Mine, MSHA I.D. No. 36-08679, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1200(d) & (i) (Mine map).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of cross-sections in lieu of contour lines on mine maps through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope. In addition, the petitioner proposes to limit the required mapping of mine workings above and below to those present within 100 feet of the vein(s) being mined unless the veins are interconnected to other veins beyond the 100 foot limit through rock tunnels. The petitioner states that:

1. Due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible.



2. The use of cross-sections in lieu of contour lines has been practiced since the late 1800's and provides critical information about spacing between veins and proximity to other mine workings, which fluctuate considerably.

3. The vast majority of current underground anthracite mining involves either second mining of remnant pillars from previous mining or the mining of veins of lower quality in proximity to inaccessible and frequently flooded abandoned mine workings that may or may not be mapped.

4. All mapping for mines above and below is researched by the petitioner's contract engineer for the presence of interconnecting rock tunnels between veins in relation to the mine, and a hazard analysis is done when mapping indicates the presence of known or potentially flooded workings.

5. When no rock tunnel connections are found, mine workings that exist beyond 100 feet from our mine, are recognized as presenting no hazard to the mine due to the pitch of the vein and rock separation.

6. Additionally, the mine workings above and below are usually inactive and abandoned and, therefore, are not usually subject to changes during the life of the mine.

7. Where evidence indicates prior mining was conducted on a vein above or below and research exhausts the availability of mine mapping, the vein will be considered mined and flooded and appropriate precautions will be taken through § 75.388, which addresses drilling boreholes in advance of mining, where possible.



8. Where potential hazards exist and in-mine drilling capabilities limit penetration, surface boreholes may be used to intercept the workings and the results analyzed prior to beginning mining in the affected area.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2013-003-C.

Petitioner: Wheels Coal Company, 59 Main Street, Tremont, Pennsylvania 17981.

Mine: No. 5 Vein Mine, MSHA I.D. No. 36-08679, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1202-1(a) (Temporary notations, revisions and requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the interval of survey to be established on an annual basis from the initial survey in lieu of every 6 months as required. The petitioner proposes to continue to update the mine map by hand notations on a daily basis and conduct subsequent surveys prior to commencing retreat mining, and whenever either a drilling program under § 75.388 or plan for mining into inaccessible areas under § 75.389 is required. The petitioner states that:

1. The low production and slow rate of advance in anthracite mining make surveying on 6-month intervals impractical. In most cases annual development is frequently limited to less than 500 feet of gangway advance with associated up-pitch development.



2. The vast majority of small anthracite mines are non-mechanized and use hand-loading mining methods.

3. Development above the active gangway is designed to mine into the level above at designated intervals thereby maintaining sufficient control between both surveyed gangways.

4. The available engineering/surveyor resources are limited in the anthracite coal fields and surveying on an annual basis is difficult to achieve with four individual contractors currently available.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2013-004-C.

Petitioner: Wheels Coal Company, 59 Main Street, Tremont, Pennsylvania 17981.

Mine: No. 5 Vein Mine, MSHA I.D. No. 36-08679, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1400 (Hoisting equipment; general).

Modification Request: The petitioner requests a modification of the existing standard for cages, platforms, or other devices used to transport persons in shafts or slopes in underground coal mines. The petitioner seeks to permit the use of a slope conveyance (gunboat) to transport persons without safety catches or other no less effective devices but instead use an increased rope strength/safety factor and secondary safety rope connection in place of such devices. The petitioner states that:



1. No such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of anthracite mines.

2. A functional safety catch capable of working in slopes with knuckles and curves is not commercially available. If a makeshift device is installed it would activate on knuckles or curves when no emergency existed, causing a tumbling effect on the conveyance which would increase rather than decrease the hazard to miners.

3. A safer alternative is to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device and use hoisting ropes having a factor of safety greater than the American Standards Specifications for the Use of Wire Rope in Mines.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2013-003-M.

Petitioner: Badger Mining Corporation, N7815 County Highway P, Taylor, Wisconsin 54659.

Mine: Taylor Plant, MSHA I.D. No. 47-02555, P.O. Box 160, Taylor, Wisconsin 54659, located in Jackson County, Wisconsin.

Regulation Affected: 30 CFR 56.13020 (Use of compressed air).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method for implementing a clothes cleaning process that uses



regulated compressed air for cleaning miners' dust-laden clothing. The petitioner states that:

1. Only miners trained in the operation of the clothes cleaning booth will be permitted to use the booth to clean their clothes.
2. The petitioner will incorporate the National Institute for Occupational Safety and Health (NIOSH) Clothes Cleaning Process and Manufacturer's Instruction Manuals into their MSHA Part 46 Training Plan and train affected miners in the process.
3. Miners entering the booth will examine valves and nozzles for damage or malfunction and will close the door fully before opening the air valve. Any defects will be repaired prior to the booth being used.
4. Miners entering the booth will wear eye protection, ear plugs or muffs for hearing protection, and half-mask fit-tested respirator (disposable or reusable) that meets or exceeds the minimum requirements of a N95 filter for respiratory protection. A sign will be conspicuously posted requiring the use of personal protective equipment when entering the booth.
5. Airflow through the booth will be sufficient to maintain negative pressure during use of the cleaning system to prevent contamination of the environment outside the booth. Airflow will be in a downward direction to move contaminants away from the miner's breathing zone.
6. Air pressure through the spray manifold will be limited to 30 pounds per square inch or less. A lock box with a single secondary crusher key controlled by the supervisor will be used to prevent regulator tampering.



7. The air spray manifold will consist of a 1½ inch, square tube with ¼-inch wall thickness capped at the base and actuated by an electrically controlled valve at the top.
8. Air spray manifold will contain 27 nozzles at 30 pounds per square inch gauge.
9. The uppermost spray of the spray manifold will be located not more than 56 inches from the floor.
10. Side deflectors will be used to eliminate the possibility of incidental contact with the air nozzles during the clothes cleaning process.
11. The petitioner will conduct periodic maintenance checks of the booth according to the recommendations contained in the NIOSH Clothes Cleaning Process Instruction Manual.
12. The air receiver tank supplying air to the manifold system will be of sufficient volume to permit no less than 20 seconds of continuous clothes cleaning time.
13. An appropriate hazard warning sign will be posted on the booth to state, at a minimum, “Compressed Air” and “Respirable Silica Dust”.
14. Minimum performance criteria for the local exhaust ventilation system servicing the booth will be maintained at all times. Provisions will be established by the Petitioner to remove the booth from service if the volumetric airflow falls below 80 percent of original design capacity and/or booth negative pressure falls below 0.1 water gauge.
15. A pressure relief valve design for the booth’s minimum 240-gallon air reservoir will be installed.



16. The air inlet filter located on top of the booth will have a filter system that is rated to remove particles less than 10 microns in size.

The petitioner further states that:

1. The alternative method provides a direct reduction of miners' exposure to respirable crystalline dust, thus reducing their health risks while providing no less than the same degree of safety provided by the existing standard.

2. The alternative method has been jointly developed and successfully tested by the NIOSH.

Dated: February 12, 2013

---

George F. Triebisch  
Director  
Office of Standards, Regulations and Variances

[FR Doc. 2013-03583 Filed 02/14/2013 at 8:45 am; Publication Date: 02/15/2013]